IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

State of Oklahoma, Plaintiffs, vs. Tyson Foods, Inc., et al., Defendants.	)	**Case No. 4:05-cv-00329-GKF-PJC**

DECLARATION OF ANDY DAVIS, Ph.D.

I, Andy Davis, Ph.D., hereby state as follows:

1. I have been retained by Faegre & Benson LLP, on behalf of Cargill Inc. and Cargill Turkey Production LLC, to provide opinions in the above captioned matter. Specifically, I was asked to evaluate the evidence provided by the State to see if the State has demonstrated that any of the 35 Cargill contract-grower or Cargill-owned (collectively, Cargill) locations had affected waters or surface water sediment in adjacent waters of Arkansas and Oklahoma.
2. I previously authored and submitted to my client an expert report detailing my work and conclusions in this matter. I understand that this report was served on Plaintiffs on January 29, 2009. I understand that the corrected version of the report was served on Plaintiffs on April 3, 2009. I incorporate that report herein by reference.
3. If called to testify at trial, I would testify consistent with the opinions expressed in that report.
4. I have reviewed the State of Oklahoma's Motion In Limine to Preclude Expert Testimony of Defendants' Witness Andy Davis and Integrated Brief In Support Thereof, as well as

Exhibit G

the Declaration of Jim C. Loftis, Ph.D., P.E., and the Declaration of Roger L. Olsen, PhD., P.E. (See Docket No. 2074.)

5. I have over 20 years of experience solving environmental problems at numerous sites, primarily at RCRA and CERCLA sites. From 1985 to 1988, I was a Senior Geochemist at Camp Dresser & McKee Inc. From 1988 to 1995, I was Principal Geochemist at PTI Environmental Services. In 1991 and 1995, I was an adjunct professor at the University of Colorado where I taught the Fate and Transport of Organic Compounds in the Environment class.
6. I used wet weight data for total phosphorus concentrations in sediments as it was received from the State.
7. Dr. Olsen wrongly states that dry weight sediment concentrations are necessary for any statistical analysis.
8. My use of wet weight sediment concentrations is appropriate for a screening level evaluation because I used the wet weight data set to develop the statistical cutoffs reflected in Figures 2.1 and 2.2 in my report, and then compared the Cargill specific wet weight chemistry data against those criteria. In addition, when I compared upstream and downstream samples I used wet weight chemistry throughout my analysis. What is important is to be consistent, and not compare dry weight concentrations to wet weight concentrations.
9. My analysis relies primarily upon the water quality data rather than sediment data.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 5, 2009

Andy Davis, Ph.D.